IN THE SUPREME COURT FOR THE STATE OF ALASKA

ITMO the Hospitalization of D.G.	)	Supreme Court No. S-15100

Trial Court Case No. 3AN 13-454PR

APPEAL FROM THE SUPERIOR COURT
THIRD JUDICIAL DISTRICT AT ANCHORAGE
THE HONORABLE FRANK A. PFIFFNER, PRESIDING

BRIEF OF APPELLANT

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CONSTITUTIONAL PROVISIONS

United States Constitution, Fifth Amendment (Due Process)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Alaska Const., Article 1, § 7. Due Process

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

STATUTES

AS § 47.30.700

§ 47.30.700. Initial involuntary commitment procedures

(a) Upon petition of any adult, a judge shall immediately conduct a screening investigation or direct a local mental health professional employed by the department or by a local mental health program that receives money from the department under AS 47.30.520 -47.30.620 or another mental health professional designated by the judge, to conduct a screening investigation of the person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to self or others. Within 48 hours after the completion of the screening investigation, a judge may issue an ex parte order orally or in writing, stating that there is probable cause to believe the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others. The court shall provide findings on which the conclusion is based, appoint an attorney to represent the respondent, and may direct that a peace officer take the respondent into custody and deliver the respondent to the nearest appropriate facility for emergency examination or treatment. The ex parte order shall be provided to the respondent and made a part of the respondent's clinical record. The court shall confirm an oral order in writing within 24 hours after it is issued.

(b) The petition required in (a) of this section must allege that the respondent is reasonably believed to present a likelihood of serious harm to self or others or is gravely disabled as a result of mental illness and must specify the factual information on which that belief is based including the names and addresses of all persons known to the petitioner who have knowledge of those facts through personal observation.

AS § 47.30.705

§ 47.30.705. Emergency detention for evaluation

(a) A peace officer, a psychiatrist or physician who is licensed to practice in this state or employed by the federal government, or a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest evaluation facility. A person taken into custody for emergency evaluation may not be placed in a jail or other correctional facility except for protective custody purposes and only while awaiting transportation to a treatment facility. However, emergency protective custody under this section may not include placement of a minor in a jail or secure facility. The peace officer or mental health professional shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the facility.

(b) In this section, “minor” means an individual who is under 18 years of age.

AS § 47.30.710

§ 47.30.710. Examination; hospitalization

(a) A respondent who is delivered under AS 47.30.700 - 47.30.705 to an evaluation facility for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility.

(b) If the mental health professional who performs the emergency examination has reason to believe that the respondent is (1) mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others, and (2) is in need of care or treatment, the mental health professional may hospitalize the respondent, or arrange for hospitalization, on an emergency basis. If a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation.

III. JURISDICTIONAL STATEMENT

Appellant, D.G., appeals to the Alaska Supreme Court from:

1. February 26, 2013, Order on Petition for Involuntary Commitment for Evaluation, and
2. March 6, 2013, Order denying Appellant's Motion to Vacate *Ex Parte* Order.

Notice of Appeal was timely filed March 19, 2013. This court has jurisdiction under AS 22.05.010(a)&(b).

IV. PARTIES

The parties to this appeal are D.G., Appellant, and the State of Alaska, Appellee.[1]

V. STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the Order on Petition for Involuntary Commitment for Evaluation, entered without notice to Appellant or opportunity to be heard while he was in custody (*Ex Parté* Order) denied Appellant his right to due process under the constitutions of the United States and State of Alaska?

2. Whether the Superior Court erred by denying the Motion to Vacate *Ex Parté* Order as moot?

[1] Providence Alaska Medical Center and Connie Schuster, who filed the *Ex Parté* Petition for Involuntary Commitment for Evaluation, Exc. 3 & 5, were originally listed as appellees, but dismissed pursuant to their request through this Court's Order dated April 16, 2013.

VI. STATEMENT OF THE CASE

A. Brief Description of Case

This is a case based on the fundamental principle that procedural due process requires notice and an opportunity to be heard unless there is some emergency justifying *ex parté* proceedings. More specifically, that it is a denial of due process to conduct *ex parté* proceedings against a psychiatric respondent when he is in custody, presumptively safe, and there is thus no emergency justifying dispensing with notice and an opportunity to be heard.

B. Course of Proceedings

On February 26, 2013, at approximately 8:50 a.m., D.G. was brought to the Providence Alaska Medical Center Psychiatric Emergency Room (Providence) by a police officer under AS 47.30.705, commonly known as a "Police Officer Application" or "PoA." Exc. 1-2.

A little over 6 hours later, at 3:09-3:11 p.m., Providence employee Connie Chevalier faxed a Petition for Involuntary Commitment for Evaluation, under AS 47.30.700 and AS 47.30.710(b) to the Probate Court Clerk in Anchorage (*Ex Parté* Petition). Exc. 3-5.

Approximately 35 minutes later, at 3:45 p.m., an Order on Petition for Involuntary Commitment for Evaluation was issued ordering D.G. to be confined at the Alaska Psychiatric Institute (API) for evaluation under AS 47.30.700 (*Ex Parté* Order). Exc. 6-9.

Two days later, on February 28, 2013, D.G. filed a Motion to Vacate the *Ex Parté* Order. Exc. 10-15. At a Compliance Hearing held later that day, Magistrate David Bauer presiding, API notified the Superior Court that D.G. had been discharged. Tr. 3. D.G. immediately advised the Superior Court that the Motion to Vacate the *Ex Parté* Order was not moot. Tr. 3-4. Later that day API filed a Notice of Release that D.G. had been discharged because he did not meet commitment standards. Exc. 16.

On March 6, 2013, the Superior Court, Frank A. Pfiffner presiding, denied the Motion to Vacate the *Ex Parté* Order as moot. Exc. 17.

This appeal followed on March 19, 2013.

C. Statement of Facts

On February 26, 2013, D.G.'s father called the police for allegedly suicidal statements and D.G. was taken to the Providence Psychiatric Emergency Room by the police. Exc. 1-2. Approximately 6 hours after arrival, Providence filed the *Ex Parté* Petition based entirely on hearsay. [2] Exc. 3-5. Two days later API discharged D.G. because he did not meet commitment criteria. Exc. 16.

[2] D.G. disputes many of the alleged facts in the e *Ex Parté* Petition, but was never given a chance to object to or rebut these hearsay allegations. Exc. 14.

VII. ARGUMENT

A. Summary of Argument

Denial of notice and opportunity to be heard are constitutionally permissible only when there is an emergency sufficient to override these fundamental elements of procedural due process. When someone is in custody, as D.G. was, there is no such justification. Thus, the *Ex Parté* Order issued when D.G. was in custody violated his right to procedural due process.

The Superior Court's refusal to consider D.G.'s procedural due process challenge to the *Ex Parté* Order on mootness grounds was in error not only because of the collateral consequences doctrine, but because he is entitled to challenge the entry of an order issued in violation of his due process rights.

Under existing precedent, this appeal should be considered on the merits under the collateral consequences exception to the mootness doctrine or the public interest exception to the mootness doctrine. If this appeal is not considered on the merits because of mootness, the *Ex Parté* Order should be vacated under the long-standing principle that a party ought not to be subjected to an unreviewable judgment.

Finally, it is suggested that this case presents an opportunity to re-examine the mootness ruling in *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371 (Alaska 2007) and allow appeals of all involuntary commitments be considered on their merits.

B. The Order for Involuntary Commitment for Evaluation Violated D.G.'s Due Process Rights

(1) Standard of Review

The adequacy of the notice and hearing afforded a litigant involves constitutional due process considerations which this Court reviews *de novo,* and to which it applies its independent judgment. *Lashbrook v. Lashbrook*, 957 P.2d 326, 328 (Alaska 1998).

(2) There Was No Emergency Justifying Dispensing with Notice and an Opportunity to be Heard

In *Humphrey v. Cady,* 405 U.S. 504, 508, 509, 92 S.Ct. 1048, 1052 (1972), the United States Supreme Court held that psychiatric confinement constitutes a "massive curtailment of liberty" requiring compliance with procedural due process under the United States Constitution. In *Wetherhorn,* 156 P.3d at 379, citing *Humphrey,* this Court held involuntary commitment also implicates Alaska's constitutional guarantees of individual liberty and privacy requiring compliance with procedural due process under the Alaska Constitution. Even short periods of psychiatric confinement involve the massive curtailment of liberty requiring compliance with procedural due process. *In re W.H.*, 481 A.2d 22, 24 (1984); *In re Harris,* 654 P.2d 109, 114 (Wash. 1982); *State ex rel. Doe v. Madonna,* 295 N.W.2d 356, 364 (Minn.1980).

The hallmarks of due process under the United States Constitution are meaningful notice, and a meaningful opportunity to be heard. *Hamdi v. Rumsfeld*, 542 U.S. 507, 124 S.Ct. 2633, 2648-2649 (2004):

> "For more than a century the central meaning of procedural due process has been clear: 'Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be

> notified.' It is equally fundamental that the right to notice and an opportunity to be heard 'must be granted at a meaningful time and in a meaningful manner.' "

Under the Alaska Constitution, in *Wetherhorn*, 156 P.3d at 380, this Court held:

> As a general principle, due process "requires that the notice of a hearing must be appropriate to the occasion and reasonably calculated to inform the person to whom it is directed of the nature of the proceedings." Due process also requires that a respondent be notified in such a manner that respondent has a reasonable opportunity to prepare

(footnotes omitted).

In *Hoffman v. State*, 834 P.2d 1218, 1219 (Alaska 1992), this Court stated:

> We have consistently held that, except in emergencies, due process requires the State to afford a person an opportunity for a hearing before the State deprives that person of a protected property interest.

Certainly the due process protections from the "massive curtailment of liberty" represented by psychiatric confinement deserves at least as great protection.

Here, the Respondent was in custody and there was no justification to deny him notice and an opportunity to be heard.[3]

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[3] While the statutory scheme is not precisely the same, in an analogous situation, the Minnesota Supreme Court held in *Madonna* that when seeking to continue to hold a person already in custody, while a full, formal commitment hearing was not needed, due process required a hearing preceded by adequate notice of the grounds for such confinement, and the patient should have the opportunity to be represented by counsel, either retained or appointed. 295 N.W.2d at 366.

C. The Superior Court Erred by Holding D.G.'s Motion to Vacate Moot

(3) Standard of Review

Mootness is a matter of judicial policy and its application is a question of law; this Court adopts the rule of law that is most persuasive in light of precedent, reason, and policy. *In re Joan K.*, 273 P.3d 594, 595-596 (Alaska 2012). This standard of review also applies to all of the remaining sections.

(4) The Superior Court Erred by Failing to Rule on D.G's Due Process Claim

At the February 28, 2013, Compliance Hearing before Magistrate Bauer D.G. informed the Superior Court that D.G.'s Motion to Vacate *Ex Parte* Order was not moot. Tr. 3-4. However, without requesting any briefing or argument on the issue, Superior Court Judge Pfiffner denied the Motion as moot because D.G. had been released by API.[4] Exc. 17.

While the *Ex Parté* Order appealed from is not a 30 day commitment it would appear the same considerations at play in *Joan K.* apply here. In *Joan K.*, 273 P.3d at 598, this Court held that for first commitments collateral consequences preclude application of the mootness doctrine. This Court also indicated that "some number of prior involuntary commitment orders would likely eliminate the possibility of additional collateral consequences, precluding the doctrine's application." *Id.*

[4] It is unknown if Judge Pfiffner was made aware of D.G.'s statement at the Compliance Hearing before Magistrate Bauer that the Motion to Vacate *Ex Parte* Order was not moot.

In this case, the *Ex Parté* Petition does state, "The patient has a history of mental illness during childhood, with multiple hospitalizations and diagnoses,"[5] but this should not change the result. Childhood hospitalizations do not eliminate the collateral consequences of an adult commitment.[6] Therefore, these childhood hospitalizations should not preclude application of the collateral consequences exception to the mootness doctrine under *Joan K*.

D. The *Ex Parté* Order is Reviewable Under *Joan K.*

For the same reasons that the Superior Court should have considered D.G.'s Motion to Vacate *Ex Parté* Order, this Court should review it. *Joan K*. applies because this was D.G.'s first involuntary commitment (as an adult).

E. The Public Interest Exception to the Mootness Doctrine Applies

Should this Court decide that the collateral consequences exception to the Mootness doctrine under *Joan K*. does not apply to this appeal, this Court should still review the Superior Court's denial of D.G.'s Motion to Vacate *Ex Parté* Order under the public interest exception to the mootness doctrine. Under the public interest exception to the mootness doctrine this Court will review an otherwise moot appeal when:

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[5] Exc. 4.

[6] It will be noted, however, that these childhood hospitalizations and diagnoses were used against D.G., Exc. 4, demonstrating the reality that involuntary commitments impact a person throughout life.

> (1) the disputed issues are capable of repetition, (2) the mootness doctrine, if applied, may cause review of the issues to be repeatedly circumvented, and (3) the issues presented are so important to the public interest as to justify overriding the mootness doctrine.

Wetherhorn, 156 P.3d at 380-381. All three of these factors are present.

With respect to (1), whether someone already in custody under AS 47.30.705 can be constitutionally subjected to an *ex parté* proceeding under AS 47.30.700 arises every time an *ex parté* petition is filed under AS 47.30.710(b).

With respect to (2), since the 72 hour time period allowed for confinement under AS 47.30.700 will have long expired before any appeal could ever be heard, due process challenges to AS 47.30.710(b) allowing extended confinement pursuant to an *ex parté* proceeding of someone already in custody would repeatedly circumvent review.

With respect to (3), it is respectfully suggested that whether people are being subjected to unconstitutional *ex parté* proceedings in the Superior Court multiple times a week presents an issue so important to the public interest as to justify overriding the mootness doctrine.

F. If The Court Finds This Appeal Moot and Declines to Review It, The *Ex Parté* Order Should Be Vacated

Vacating judgments when appeals become moot is a long-standing principle in both this Court and the United States Supreme Court. In *City of Valdez v. Gavora*, 692 P.2d 959, 960-961 (Alaska 1984), this Court adopted the federal rule vacating judgments when appeals become moot:

> [We] adopt the federal practice which is to reverse or vacate the judgment below and remand the case, with directions to dismiss the complaint.

> *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39, 71 S.Ct. 104, 106, 95 L.Ed. 36, 41 (1950). This practice is intended to "prevent a judgment, unreviewable because of mootness, from spawning any legal consequences."

(footnotes omitted).

In *Peter A v. Alaska Dep't. of Health and Social Services*, 146 P.3d 991 (Alaska 2006), citing to *Gavora*, at footnote 25, this Court did note:

> We express no opinion about whether *Gavora's* seemingly broad assertion that a holding of mootness requires vacating the judgment below should be narrowed in light of the Supreme Court's discussion in *U.S. Bancorp*.[7]

However, the United States Supreme Court in *U.S. Bancorp* did not back away from the requirement very far. In *U.S. Bancorp*, mootness arose because the parties settled. In those circumstances, the United States Supreme Court held *vacatur* was not warranted because the settling party voluntarily relinquished the right to correct a wrongly issued judgment.[8]

The United States Supreme Court stated in *U.S. Bancorp* that in other circumstances *vacatur* was required:

> [T]he judgment below should not be permitted to stand when without any fault of the [petitioner] there is no power to review it upon the merits. . . . A party who seeks review of the merits of an adverse ruling, but is frustrated by the vagaries of circumstance, ought not in fairness be forced to acquiesce in the judgment.[9]

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[7] *United States Bancorp Mortgage Co., v. Bonner Mall Partnership*, 513 U.S. 18, 115 S.Ct. 386 (US 1994).

[8] 513 US at 25, 115 S.Ct. at 392.

[9] 513 US at 25, 115 S.Ct. at 391, citations omitted.

The United States Supreme Court recently reiterated this federal vacatur policy in *Camreta v. Greene,* __ U.S. __ 131 S.Ct. 2020, 2035, (2011).

It is respectfully suggested *Wetherhorn* is not actually contrary to this long-standing principle because this Court vacated the commitment order on rehearing. This Court's original opinion in *Wetherhorn* affirmed the commitment after it declined to review her evidentiary challenges because they were moot. Ms. Wetherhorn petitioned for rehearing on the grounds that this Court had not found the state proved she was gravely disabled under the newly announced constitutional standard that she was "incapable of surviving safely in freedom," and therefore the commitment order should be vacated.[10] On rehearing this Court did exactly that.

Wetherhorn was this Court's first opportunity to address Alaska involuntary commitment statutes. There, this Court (1) addressed Ms. Wetherhorn's challenge to the AS 47.30.915(7)(B) definition of gravely disabled as being constitutionally insufficient as written without addressing mootness, (2) declined to review the evidence based challenges to the involuntary commitment order on mootness grounds, holding the public interest exception to the mootness doctrine did not apply, (3) held the evidentiary based challenges to the involuntary commitment order were moot and the public interest exception to the mootness doctrine did not apply, (4) held the failure to provide the statutorily mandated Visitor's Report in connection with the involuntary medication order

[10] For the convenience of the Court, Ms. Wetherhorn's Petition for Rehearing is appended to the end of the Excerpt of Record.

was plain error without addressing mootness, (5) held the evidentiary based challenges to the involuntary medication order were also moot, but held nevertheless that the superior court must comply with the standards enunciated in *Myers v. Alaska Psychiatric Institute*, 138 P3d, 238 (Alaska 2006), (6) reviewed Ms. Wetherhorn's other procedural challenges without addressing mootness, and (7) vacated both the involuntary commitment and involuntary medication orders. It is respectfully suggested, *Wetherhorn* did not hold involuntary commitment appeals not reviewed on the merits because they are moot are to be left in place.

In *Joan K*. this Court ordered oral argument on the mootness question, directing that the parties be prepared to discuss the authority and appropriateness of issuing a *vacatur* order to remedy possible collateral consequences arising from an otherwise moot commitment order, citing to a number of cases, including *Gavora*, *Camreta* and *Munsingwear*.[11] Ultimately, however, by holding the collateral consequences exception to the mootness doctrine applied and reviewing Joan K's appeal on the merits, this Court did not reach the question of whether *vacatur* should be ordered when involuntary commitment cases are not reviewed on the merits because of mootness.

Under both Alaska and United States Supreme Court precedent, should this Court decline to decide this appeal on the merits because of mootness, the *Ex Parté* Order should be vacated.

[11] 273 P.3d at 596.

G. **Mootness Under *Wetherhorn* Should Be Revisited**

In *Joan K.*, this Court stated:

> In *Wetherhorn v. Alaska Psychiatric Institute* we established that commitment-order appeals based on assertions of insufficient evidence are moot if the commitment period has passed, subject to the public interest exception.

273 P.3d at 596. This Court held it would not entertain overturning this *Wetherhorn* holding because this Court's order for supplemental briefing did not anticipate questioning it and Joan K did not address the standards this Court imposes for overturning its precedent. Instead, as set forth above, this Court then went on to hold the collateral consequences exception to the mootness doctrine applies for first commitments at least, but also that "some number of prior involuntary commitment orders would likely eliminate the possibility of additional collateral consequences, precluding the doctrine's application." It is respectfully suggested this appeal presents an occasion to revisit *Wetherhorn's* mootness ruling as interpreted in *Joan K*.

As set forth at n. 10 of *Joan K*:

> We will overturn one of our prior decisions only when we are "clearly convinced that the rule was originally erroneous or is no longer sound because of changed conditions, and that more good than harm would result from a departure from precedent."

(citations omitted).

To the extent *Wetherhorn* is interpreted to mean that commitment orders that are not reviewed on the merits because of mootness are to be left in place, it is respectfully suggested it was originally erroneous. As set forth above, this Court's and the United States Supreme Court's precedent is that such judgments should be vacated. *Wetherhorn*

was decided in 2007 and there is not much precedent from which to depart if were to be overturned. Thus, little or no harm would result by departing from *Wetherhorn* to the extent it is now interpreted to mean commitment orders that are not reviewed on the merits because of mootness are to be left in place.

However, D.G. believes the description in *Joan K.* of *Wetherhorn's* mootness holding is incomplete and therefore possibly misleading to the extent it is interpreted to mean that involuntary commitment orders that are not reviewed on their merits because of mootness are to be left in place. As set forth in the preceding section, on rehearing this Court in *Wetherhorn* vacated the commitment order. It is respectfully suggested that, at a minimum, this Court should clarify that if involuntary commitment orders are not reviewed on the merits because of mootness, they should be vacated.

More than that, it is also respectfully suggested this case presents an occasion to hold that people subjected to involuntary commitment orders have the right to have their appeals heard on the merits, regardless of whether they have demonstrated collateral consequences or the public interest exception to the mootness doctrine applies. Justice Stowers, dissenting in *Joan K.* would have addressed the issue notwithstanding the failure of Joan K. to address the standards for overturning precedent:

> [A]ny order for involuntary commitment that is erroneously issued remains a "live controversy" for the respondent for the remainder of the respondent's life. Of first importance, the citizen's liberty has been alleged to have been wrongfully taken by court process; the court should afford the citizen the opportunity to prove the error and, if proven, obtain judicial acknowledgment that the order was erroneously issued. Giving the citizen this opportunity will assure the citizen that she will be heard, and that if a lower court has erred, that error will not go unnoticed or unremedied, at least to the extent that the erroneous order will be reversed and vacated. . . .

> I am at a loss to understand how a citizen can be ordered to be involuntarily committed for 30 days and be precluded from appealing this order merely because it is practically impossible to perfect an appeal of an order that by its terms will expire in 30 days.

273 P.3d at 607-608.[12]

In addition to Justice Stowers' dissent, D.G. finds compelling Joan K's arguments that this Court should consider these appeals on the merits to provide guidance to the trial court and that commitment proceedings will not focus on future collateral consequences, making the record available for appellate review inadequate.[13]

Moreover, someone who has been committed multiple times and therefore may not satisfy the collateral consequences requirement, has a particularly strong interest in having his or her commitment reviewed on the merits to prevent future commitments that are not warranted under the law. In fact, because of this, it is respectfully suggested such appeals are not moot. *See, e.g., Washington v. Harper*, 494 U.S. 210, 219, 110 S.Ct. 1028, 1035 (1990) (appeal of involuntary medication order not moot because of possibility that it would be sought in future). Without appellate review on the merits, the person can be subjected to multiple erroneous confinements, all of which are refused review on mootness grounds.

While the exact facts may be different in subsequent involuntary commitment proceedings, there is the likelihood of similar facts for people who have been

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[12] While this appeal involves an involuntary commitment of 72 hours, the same principles apply.

[13] *See*, 273 P.3d at 597.

involuntarily committed numerous times. It is therefore respectfully suggested that because of the possibility, or even probability, of additional involuntary commitment proceedings against people whose "prior involuntary commitment orders would likely eliminate the possibility of additional collateral consequences," appeals of involuntary commitment orders always present a "live controversy" and are not moot even if no collateral consequences were established in the Superior Court proceeding.

At this point, the exceptions to the mootness doctrine apply in most involuntary commitment appeals but prudence will require litigants, and therefore this Court, to address mootness in all but first commitment appeals. In such cases, the appellant will likely be prejudiced by the failure to address collateral consequences below. Because of this, but most importantly, because, as Justice Stowers wrote in dissent, people who have been subjected to involuntary commitment orders should have the right to an appellate determination of whether the massive curtailment of liberty was lawful, it is respectfully suggested this Court should now consider holding that appeals of involuntary commitments are not moot and will be heard on the merits.

VIII. CONCLUSION

For the foregoing reasons, Appellant respectfully requests this Court to:

1. **REVERSE** the Superior Court's March 6, 2013, Order denying Appellant's Motion to Vacate *Ex Parte* Order, and

2. **REVERSE** and **VACATE** the Superior Court's February 26, 2013, Order on Petition for Involuntary Commitment for Evaluation.